

By: Senator(s) Mettetal

To: Business and Financial
Institutions; Judiciary,
Division BSENATE BILL NO. 2350
(As Sent to Governor)

1 AN ACT TO REENACT SECTIONS 81-18-1 THROUGH 81-18-49,
2 MISSISSIPPI CODE OF 1972, KNOWN AS THE MISSISSIPPI MORTGAGE
3 CONSUMER PROTECTION LAW; TO AMEND REENACTED SECTION 81-18-3,
4 MISSISSIPPI CODE OF 1972, TO DEFINE CERTAIN TERMS; TO AMEND
5 REENACTED SECTION 81-18-5, MISSISSIPPI CODE OF 1972, TO DELETE THE
6 EXEMPTION FOR ANY PERSON WHO IS A WHOLESALE LENDER OR WHO IS
7 REGISTERED BY CERTAIN FEDERAL AGENCIES; TO AMEND REENACTED SECTION
8 81-18-7, MISSISSIPPI CODE OF 1972, TO DELETE THE REFERENCES TO
9 "NATURAL PERSON" AND TO "REGISTRATION"; TO AMEND REENACTED SECTION
10 81-18-9, MISSISSIPPI CODE OF 1972, TO REVISE THE APPLICATION
11 REQUIREMENTS FOR LICENSE; TO AMEND REENACTED SECTION 81-18-11,
12 MISSISSIPPI CODE OF 1972, TO DELETE THE CLASSIFICATION OF
13 "CORRESPONDENT LENDER" IN REGARD TO THE MINIMUM AMOUNT OF SURETY
14 BOND; TO AMEND REENACTED SECTION 81-18-13, MISSISSIPPI CODE OF
15 1972, TO AUTHORIZE A DESIGNATED THIRD PARTY TO CONDUCT BACKGROUND
16 INVESTIGATIONS OF APPLICANTS AND TO REVISE THE LICENSING CRITERIA
17 WITH REGARD TO PRIOR CRIMINAL CONVICTIONS; TO AMEND REENACTED
18 SECTION 81-18-15, MISSISSIPPI CODE OF 1972, TO CHANGE THE ANNUAL
19 RENEWAL DATE AND TO REVISE THE CONTINUING EDUCATION REQUIREMENT;
20 TO AMEND REENACTED SECTION 81-18-17, MISSISSIPPI CODE OF 1972, TO
21 REQUIRE THE ORIGINAL LICENSE TO BE POSTED IN EACH PLACE OF
22 BUSINESS AND TO REQUIRE THE FILING OF A LOAN ORIGINATOR
23 APPLICATION; TO AMEND REENACTED SECTION 81-18-21, MISSISSIPPI CODE
24 OF 1972, TO REQUIRE APPROVAL BEFORE A LICENSEE MAY STORE FILES AT
25 AN OFF-SITE SECURE LOCATION; TO AMEND REENACTED SECTION 81-18-23,
26 MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND REENACTED
27 SECTION 81-18-25, MISSISSIPPI CODE OF 1972, TO REVISE REQUIREMENTS
28 FOR OFFICES WHERE THERE IS NO ZONING IN THE REQUESTED LOCATION; TO
29 AMEND REENACTED SECTION 81-18-27, MISSISSIPPI CODE OF 1972, TO
30 REVISE THE PROHIBITED ACTS OF MORTGAGE COMPANIES; TO AMEND
31 REENACTED SECTION 81-18-28, MISSISSIPPI CODE OF 1972, IN
32 CONFORMITY; TO AMEND REENACTED SECTION 81-18-29, MISSISSIPPI CODE
33 OF 1972, TO AUTHORIZE THE COMMISSIONER OF BANKING TO ESTABLISH BY
34 RULE SUCH REQUIREMENTS AS ARE NECESSARY UNDER THE PROVISIONS OF
35 THIS ACT; TO AMEND REENACTED SECTION 81-18-31, MISSISSIPPI CODE OF
36 1972, TO REQUIRE INDIVIDUAL BORROWER FILES TO CONTAIN A FINAL
37 SIGNED UNIFORM RESIDENTIAL LOAN APPLICATION; TO AMEND REENACTED
38 SECTION 81-18-33, MISSISSIPPI CODE OF 1972, TO REVISE THE REQUIRED
39 CONTENTS OF INDIVIDUAL BORROWER FILES OF A LICENSEE; TO AMEND
40 REENACTED SECTION 81-18-35, MISSISSIPPI CODE OF 1972, TO REQUIRE
41 THE NAME OF CO-APPLICANT IN THE JOURNAL OF MORTGAGE TRANSACTIONS;
42 TO AMEND REENACTED SECTIONS 81-18-36 AND 81-18-37, MISSISSIPPI
43 CODE OF 1972, IN CONFORMITY; TO AMEND REENACTED SECTION 81-18-41,
44 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A SUSPENDED LICENSEE MAY
45 CONTINUE SERVICING CONTRACTS ONLY FOR A REASONABLE TRANSITION
46 PERIOD AS DETERMINED BY THE COMMISSIONER; TO AMEND REENACTED
47 SECTION 81-18-43, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO
48 AMEND SECTION 81-18-51, MISSISSIPPI CODE OF 1972, TO EXTEND THE
49 REPEALER; TO CREATE A NEW CODE SECTION TO AUTHORIZE THE DEPARTMENT
50 OF BANKING AND CONSUMER FINANCE TO PARTICIPATE IN A MULTISTATE
51 LICENSING SYSTEM FOR MORTGAGE BROKERS, LENDERS AND LOAN
52 ORIGINATORS; TO CREATE A NEW SECTION TO CREATE THE CRIMINAL

53 OFFENSE OF RESIDENTIAL MORTGAGE FRAUD AND PRESCRIBE THE PENALTIES
54 THEREFOR; AND FOR RELATED PURPOSES.

55 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

56 **SECTION 1.** Section 81-18-1, Mississippi Code of 1972, is
57 reenacted as follows:

58 81-18-1. This chapter shall be known and cited as the
59 Mississippi Mortgage Consumer Protection Law.

60 **SECTION 2.** Section 81-18-3, Mississippi Code of 1972, is
61 reenacted and amended as follows:

62 81-18-3. For purposes of this chapter, the following terms
63 shall have the following meanings:

64 (a) "Application" means the submission of a borrower's
65 financial information in anticipation of a credit decision,
66 whether written or computer-generated. If the submission does not
67 state or identify a specific property, the submission is an
68 application for a prequalification and not an application for a
69 federally related mortgage loan. The subsequent addition of an
70 identified property to the submission converts the submission to
71 an application for a federally related mortgage loan.

72 (b) "Borrower" means a person who submits an
73 application for a loan secured by a first or subordinate mortgage
74 or deed of trust on a single- to four-family home to be occupied
75 by a natural person.

76 (c) "Branch" means a location of a company in or
77 outside of the state that conducts business as a mortgage broker
78 or mortgage lender * * *. A location shall be considered a branch
79 in any of the following:

80 (i) If the location is used on any type of
81 advertisement;

82 (ii) If any type of record, loan file or
83 application of the company is located at the location, with the
84 exception of unstaffed storage facilities; or

85 (iii) If a * * * consumer is received at the
86 location or is directed to deliver any information by any means to
87 the location in regards to Mississippi residential property.

88 (d) "Commissioner" means the Commissioner of the
89 Mississippi Department of Banking and Consumer Finance.

90 (e) "Commitment" means a statement by a lender required
91 to be licensed * * * under this chapter that sets forth the terms
92 and conditions upon which the lender is willing to make a
93 particular mortgage loan to a particular borrower.

94 (f) "Company" means a licensed mortgage broker or
95 mortgage lender under this chapter.

96 (g) "Control" means the direct or indirect possession
97 of the power to direct or cause the direction of the management
98 and policies of a person, whether through the ownership of voting
99 securities, by contract or otherwise, and shall include
100 "controlling," "controlled by," and "under common control with."

101 (h) "Department" means the Department of Banking and
102 Consumer Finance of the State of Mississippi.

103 (i) "Executive officer" means the chief executive
104 officer, the president, the principal financial officer, the
105 principal operating officer, each vice president with
106 responsibility involving policy-making functions for a significant
107 aspect of a person's business, the secretary, the treasurer, or
108 any other person performing similar managerial or supervisory
109 functions with respect to any organization whether incorporated or
110 unincorporated.

111 (j) "License" means a license to act as a mortgage
112 broker or mortgage lender issued by the department under this
113 chapter.

114 (k) "Licensee" means a person * * * who is required to
115 be licensed as a mortgage broker or mortgage lender under this
116 chapter.

117 (l) "Loan originator" means an individual who is an
118 employee of a * * * mortgage broker or mortgage lender working
119 from one licensed location, whose conduct of the mortgage business
120 is the responsibility of the company, and whose job
121 responsibilities include direct contact with borrowers during the
122 loan origination process, which may include soliciting,
123 negotiating, acquiring, arranging or making mortgage loans for
124 others, * * * assisting with the preparation of loan applications
125 or other documents, quoting loan rates or terms, or providing
126 required disclosures. This individual must work for a
127 licensed * * * company and work from the licensed location with
128 the department. However, an owner of a minimum of ten percent
129 (10%) of a licensed company or the named principal officer on file
130 with the department, which are registered loan originators with
131 the department, may work from any licensed location of the
132 licensed company on a temporary basis, in the capacity of a loan
133 originator as described in this chapter. The term does not
134 include individuals whose job responsibilities on behalf of a
135 company are solely clerical in nature, which is defined as normal
136 office procedures, not including any duties listed in the
137 definition of "loan originator," or sales representatives of a
138 licensed Mississippi manufactured housing operation who transmits
139 information concerning a sale via mail, courier service, or
140 electronically to a licensee or registered originator.

141 (m) "Loan processor" means an employee of a licensed
142 mortgage broker, mortgage lender or a person exempt from licensure
143 under this chapter and who performs, under the direction and
144 supervision of the mortgage broker, lender, originator or other
145 exempt person, certain clerical duties in connection with
146 residential mortgage loan transactions, which may include
147 collecting financial information and other related documentation
148 that is a part of the mortgage loan application process, ordering
149 verification of employment, verification of deposits, requests for

150 mortgage or other information necessary to process the mortgage
151 loan application. A loan processor may not perform any of the
152 duties of an originator enumerated in paragraph (1), but a loan
153 originator may perform the duties of a loan processor.

154 (n) "Lock-in agreement" means a written agreement
155 stating the terms of the lock-in fee.

156 (o) "Lock-in fee" means a fee collected by a licensee
157 to be paid to a lender to guarantee an interest rate or a certain
158 number of points on a mortgage loan from the lender.

159 (p) "Make a mortgage loan" means to advance funds,
160 offer to advance funds or make a commitment to advance funds to a
161 borrower.

162 (q) "Misrepresent" means to make a false statement of a
163 substantive fact or to engage in, with intent to deceive or
164 mislead, any conduct that leads to a false belief that is material
165 to the transaction.

166 * * *

167 (r) "Mortgage broker" means any person who directly or
168 indirectly or by electronic activity solicits, places or
169 negotiates mortgage loans for others, or offers to solicit, place
170 or negotiate mortgage loans for others that does not close
171 mortgage loans in the company name, does not use its own funds, or
172 who closes mortgage loans in the name of the company, and sells,
173 assigns or transfers the loan to others within forty-eight (48)
174 hours of the closing.

175 (s) "Mortgage lender" means any person who directly or
176 indirectly or by electronic activity originates, makes, funds or
177 purchases or offers to originate, make, or fund or purchase a
178 residential mortgage loan or who services mortgage loans.

179 (t) "Mortgage lending process" means the process
180 through which a person seeks or obtains a mortgage loan,
181 including, but not limited to, solicitation, application,
182 origination, negotiation of terms, third-party provider services,

183 underwriting, signing and closing, and funding of the loan.
184 Documents involved in the mortgage lending process include, but
185 are not limited to, uniform residential loan applications or other
186 loan applications, appraisal reports, HUD-1 settlement statements,
187 supporting personal documentation for loan applications such as
188 W-2 forms, verifications of income and employment, bank
189 statements, tax returns, payroll stubs and any required
190 disclosures.

191 (u) "Mortgage loan" means a loan or agreement to extend
192 credit made to a natural person, which loan is secured by a deed
193 to secure debt, security deed, mortgage, security instrument, deed
194 of trust or other document representing a security interest or
195 loan upon any interest in a lot intended for residential purposes,
196 or single- to four-family residential property located in
197 Mississippi, regardless of where made, including the renewal or
198 refinancing of any loan.

199 (v) "Multistate licensing system" means a system
200 involving one or more states, the District of Columbia or the
201 Commonwealth of Puerto Rico established to facilitate the sharing
202 of regulatory information and the licensing and application
203 processes, by electronic or other means, for mortgage brokers,
204 mortgage lenders and mortgage loan originators.

205 (w) "Natural person" means a human being, as
206 distinguished from an artificial person created by law.

207 (x) "Person" means any individual, sole proprietorship,
208 corporation, limited liability company, partnership, trust or any
209 other group of individuals, however organized.

210 (y) "Principal" means a * * * person who, directly or
211 indirectly, owns or controls an ownership interest of ten percent
212 (10%) or more in a corporation or any other form of business
213 organization, regardless of whether the * * * person owns or
214 controls the ownership interest through one or more * * * persons
215 or one or more proxies, powers of attorney, nominees,

216 corporations, associations, limited liability companies,
217 partnerships, trusts, joint-stock companies, other entities or
218 devises, or any combination thereof.

219 (z) "Principal officer" means an owner or employee of a
220 mortgage broker or mortgage lender who submits documentation of
221 two (2) years' experience directly related to mortgage lending,
222 who registers as a loan originator as defined in this chapter, and
223 who resides within one hundred twenty-five (125) miles of the
224 licensed main office of the company.

225 (aa) "Records" or "documents" means any item in hard
226 copy or produced in a format of storage commonly described as
227 electronic, imaged, magnetic, microphotographic or otherwise, and
228 any reproduction so made shall have the same force and effect as
229 the original thereof and be admitted in evidence equally with the
230 original.

231 (bb) "Registrant" means any person required to register
232 under Section 81-18-5(1).

233 (cc) "Residential immovable property" means property
234 such as, but not limited to, vinyl siding, roofs, pools, spas,
235 appliances, windows, home additions, landscaping, fencing, etc.

236 (dd) "Residential property" means improved real
237 property or lot used or occupied, or intended to be used or
238 occupied, as a residence by a * * * person.

239 (ee) "Service a mortgage loan" means the collection or
240 remittance for another, * * * the right to collect or remit for
241 another, or the collection of the company's own loan portfolio,
242 whether or not the company originated, funded or purchased the
243 loan in the secondary market, of payments of principal and
244 interest, trust items such as insurance and taxes, and any other
245 payments pursuant to a mortgage loan.

246 * * *

247 **SECTION 3.** Section 81-18-5, Mississippi Code of 1972, is
248 reenacted and amended as follows:

249 81-18-5. The following persons are not subject to the
250 provisions of this chapter, unless otherwise provided in this
251 chapter:

252 (a) Any person authorized to engage in business as a
253 bank holding company or as a financial holding company, or any
254 wholly owned subsidiary thereof; however, the wholly owned
255 subsidiary must file a notification statement that includes the
256 following information:

257 (i) The name or names under which business will be
258 conducted in Mississippi;

259 (ii) The name and address of the parent financial
260 institution;

261 (iii) The name, mailing address, telephone number,
262 and fax number of the person or persons responsible for handling
263 consumer inquiries and complaints;

264 (iv) The name and address of the registered agent
265 for service of process in Mississippi;

266 (v) A statement signed by the president or chief
267 executive officer of the entity stating that the entity will
268 receive and process consumer inquiries and complaints promptly,
269 fairly, and in compliance with all applicable laws; and

270 (vi) A fee of One Hundred Dollars (\$100.00).

271 The notification statement must be filed before beginning to
272 conduct a mortgage business in this state and must be updated by
273 the entity as the information changes. Any entity that fails to
274 file the notification statement or keep the information current
275 will be immediately subject to the licensing requirements of
276 Section 81-18-9. This notification statement must be renewed
277 annually as of December 31 of each year with a renewal fee of One
278 Hundred Dollars (\$100.00).

279 (b) Any person authorized to engage in business as a
280 bank, credit card bank, savings bank, savings institution, savings
281 and loan association, building and loan association, trust company

282 or credit union under the laws of the United States, any state or
283 territory of the United States, or the District of Columbia, the
284 deposits of which are federally insured, or any wholly owned
285 subsidiary thereof.

286 * * *

287 (c) Any lender holding a license under the Small Loan
288 Regulatory Law (Section 75-67-101 et seq.) and the Small Loan
289 Privilege Tax Law (Section 75-67-201 et seq.).

290 (d) Any attorney licensed to practice law in
291 Mississippi who provides mortgage loan services incidental to the
292 practice of law and who is not a principal of a * * * company as
293 defined under this chapter.

294 (e) A real estate company or licensed real estate
295 salesperson or broker who is actively engaged in the real estate
296 business and who does not receive any fee, commission, kickback,
297 rebate or other payment for directly or indirectly negotiating,
298 placing or finding a mortgage for others.

299 (f) Any person performing any act relating to mortgage
300 loans under order of any court.

301 (g) Any person who is employed by and represents a
302 Mississippi manufactured housing operation and who makes a
303 mortgage loan on manufactured housing and land transactions,
304 modular homes, or any combination thereof; any person who engages
305 in owner-financing; or any person engaged in the financing of a
306 consumer loan secured by a mortgage on residential immovable
307 property in not more than twelve (12) Mississippi residential
308 mortgage loans, or who contracts for no more than twelve (12)
309 Mississippi residential loan transactions, over the licensing
310 period provided in this chapter, including those acting as
311 originators. The twelve (12) transactions are cumulative to any
312 combination of operations owned or controlled by any one
313 individual, sole proprietorship, corporation, limited liability
314 company, partnership, trust or any other group of individuals,

315 however organized. However, within thirty (30) days of loan
316 closure, the person shall submit to the commissioner a fee of Ten
317 Dollars (\$10.00), which is not chargeable to the consumer, and
318 written notification containing such loan information as required
319 by the commissioner, seeking approval to engage in a residential
320 mortgage transaction without first complying with the licensing
321 provisions of this chapter. Any person who enters into more than
322 twelve (12) of those transactions in the licensing period provided
323 in this chapter must be licensed according to the procedures
324 prescribed in this chapter. The fees paid for registration during
325 a licensing period will be deducted from the cost of an initial
326 license. This paragraph (g) shall not include persons solely
327 involved in the making of a mortgage loan on modular homes.

328 (h) Any natural person who purchases mortgage loans
329 from a licensed mortgage broker or mortgage lender solely as an
330 investment and who is not in the business of making or servicing
331 mortgage loans.

332 (i) Any person who makes a mortgage loan to his or her
333 employee as an employment benefit.

334 (j) The United States of America, the State of
335 Mississippi or any other state, and any agency, division or
336 corporate instrumentality thereof including, but not limited to,
337 the Mississippi Home Corporation, Rural Economic Community
338 Development (RECD), Habitat for Humanity, the Federal National
339 Mortgage Association (FNMA), the Federal Home Loan Mortgage
340 Company (FHLMC), the Government National Mortgage Association
341 (GNMA), the United States Department of Housing and Urban
342 Development (HUD), the Federal Housing Administration (FHA), the
343 Department of Veterans Affairs (VA), the Farmers Home
344 Administration (FmHA), and the Federal Land Banks and Production
345 Credit Associations.

346 (k) Nonprofit corporations exempt from federal taxation
347 under Section 501(c) of the Internal Revenue Code making mortgage

348 loans to promote home ownership or home improvements for the
349 disadvantaged.

350 (1) Loan originators as defined under Section
351 81-18-3(j) are exempt from the licensing requirements of this
352 chapter except for Sections 81-18-9(3)(d), 81-18-13, 81-18-15(3),
353 81-18-17, 81-18-37 and 81-18-43, but shall register with the
354 department as a loan originator. Any * * * person required to
355 register under this paragraph * * * shall register initially with
356 the department and thereafter file an application for renewal of
357 registration with the department on or before December 31 of each
358 year providing the department with such information as the
359 department may prescribe by regulation, including, but not limited
360 to, the business address where the person engages in any business
361 activities covered by this chapter, proof of at least one (1) year
362 of experience directly in mortgage lending within the two (2)
363 years prior to the date of application, the residential address of
364 the applicant and a telephone number that customers may use to
365 contact the person. If the person does not meet the experience
366 requirement, then he or she shall complete a minimum of
367 twenty-four (24) hours of education as approved by the Mississippi
368 Association of Mortgage Brokers, the National Association of
369 Mortgage Brokers, the Mortgage Bankers Association or the Mortgage
370 Bankers Association of Mississippi for the experience waiver. If
371 the experience did not occur within the State of Mississippi, then
372 the department shall require the person to complete an education
373 course of a minimum of four (4) hours covering the Mississippi
374 Mortgage Consumer Protection Law and to pass an examination
375 covering the course material. This initial registration of a loan
376 originator shall be accompanied by a fee of One Hundred Dollars
377 (\$100.00). Annual renewals of this registration shall require a
378 fee of Fifty Dollars (\$50.00). No person required to register
379 under this paragraph * * * shall transact business in this state
380 directly or indirectly as a loan originator unless that person is

381 registered with the department. The loan originator shall display
382 the current, original registration issued by the department in the
383 licensed office in which he or she is assigned.

384 **SECTION 4.** Section 81-18-7, Mississippi Code of 1972, is
385 reenacted and amended as follows:

386 81-18-7. (1) On and after July 1, 2000, no person * * *
387 shall transact business in this state, directly or indirectly, as
388 a mortgage broker or mortgage lender unless he or she is
389 licensed * * * by the department or is a person exempted from the
390 licensing requirements under Section 81-18-5.

391 (2) A violation of this section does not affect the
392 obligation of the borrower under the terms of the mortgage loan.
393 The department shall publish and provide for distribution of
394 information regarding approved or revoked licenses.

395 (3) On and after July 1, 2000, every person who directly or
396 indirectly controls a person who violates this section, including
397 a general partner, executive officer, joint venturer, contractor,
398 or director of the person, violates this section to the same
399 extent as the person, unless the person whose violation arises
400 under this subsection shows by a preponderance of evidence the
401 burden of proof that he or she did not know and, in the exercise
402 of reasonable care, could not have known of the existence of the
403 facts by reason of which the original violation is alleged to
404 exist.

405 **SECTION 5.** Section 81-18-8, Mississippi Code of 1972, is
406 reenacted as follows:

407 81-18-8. Municipalities and counties in this state may enact
408 ordinances that are in compliance with, but not more restrictive
409 than, the provisions of this chapter. Any order, ordinance or
410 regulation existing on July 1, 2002, or enacted on or after July
411 1, 2002, that conflicts with this provision shall be null and
412 void.

413 **SECTION 6.** Section 81-18-9, Mississippi Code of 1972, is
414 reenacted and amended as follows:

415 81-18-9. (1) An application for a license under this
416 chapter shall be made in writing and in the form as the department
417 may prescribe.

418 (2) The application shall include at least the following:

419 (a) The legal name, residence, and business address of
420 the applicant and, if applicable the legal name, residence and
421 business address of every principal, together with the résumé of
422 the applicant and of every principal of the applicant.

423 (b) The legal name of the mortgage broker or mortgage
424 lender in addition to the name under which the applicant will
425 conduct business in the state, neither of which may be already
426 assigned to a licensed mortgage broker or mortgage lender.

427 (c) The complete address of the applicant's main
428 office, branch office(s) and any other locations at which the
429 applicant will engage in any business activity covered by this
430 chapter.

431 (d) A copy of the certificate of incorporation, if a
432 Mississippi corporation.

433 (e) Documentation satisfactory to the department as to
434 a certificate of existence of authority to transact business
435 lawfully in Mississippi, if an individual, sole proprietorship,
436 limited liability company, partnership, trust or any other group
437 of individuals, however organized.

438 (f) If a foreign corporation, a copy of a certificate
439 of authority to conduct business in Mississippi and the address of
440 the main corporate office of the foreign corporation.

441 (g) Documentation of a minimum of two (2) years'
442 experience directly in mortgage lending by a person named as the
443 principal officer of the company. This experience shall have been
444 within the previous four (4) years from the date of application.
445 If the proof of experience is with a company that is located

446 outside of Mississippi, then the principal officer shall be
447 required to complete four (4) hours of approved courses on the
448 Mississippi Mortgage Consumer Protection Law. The principal
449 officer shall also register as a loan originator with the
450 department. Evidence shall include, where applicable:

451 (i) Copies of business licenses issued by
452 governmental agencies.

453 (ii) Written letters of employment history of the
454 person filing the application for at least two (2) years before
455 the date of the filing of an application including, but not
456 limited to, job descriptions, length of employment, names,
457 addresses and phone numbers for past employers.

458 (iii) A listing of wholesale lenders with whom the
459 applicant has done business with in the past two (2) years either
460 directly as a mortgage broker or loan originator.

461 (iv) Any other data and pertinent information as
462 the department may require with respect to the applicant, its
463 directors, principals, trustees, officers, members, contractors or
464 agents. A résumé alone shall not be sufficient proof of
465 employment history.

466 * * *

467 (3) The application shall be filed together with the
468 following:

469 (a) The license fee specified in Section 81-18-15;

470 (b) A completed * * * form signed by an owner, chief
471 executive officer or named principal officer authorizing the
472 department to obtain information from outside sources for each
473 person, executive officer and employee;

474 (c) An original or certified copy of a surety bond in
475 favor of the State of Mississippi for the use, benefit, and
476 indemnity of any person who suffers any damage or loss as a result
477 of the * * * company's breach of contract or of any obligation
478 arising therefrom or any violation of law; and

479 (d) Except as provided in this paragraph (d), a set of
480 fingerprints from any local law enforcement agency from the
481 following applicants:

482 (i) All persons operating as a sole proprietorship
483 that plan to conduct a mortgage brokering or lending business in
484 the State of Mississippi;

485 (ii) Partners in a partnership or principal owners
486 of a limited liability company that own at least ten percent (10%)
487 of the voting shares of the company;

488 (iii) * * * Any shareholders owning ten percent
489 (10%) or more of the outstanding shares of the corporation; and

490 (iv) All loan originators.

491 **SECTION 7.** Section 81-18-11, Mississippi Code of 1972, is
492 reenacted and amended as follows:

493 81-18-11. (1) For purposes of Section 81-18-9, the
494 definitions of the classes of companies and their respective
495 minimum amounts of surety bonds will be:

496 * * *

497 (a) "Mortgage broker" shall be defined as any person
498 that directly solicits, processes, places or negotiates mortgage
499 loans for others and that does not close mortgage loans in the
500 company name, does not use its own funds, or who closes mortgage
501 loans in the name of the company, and sells, assigns or transfers
502 the loan to others within forty-eight (48) hours of the closing.
503 The amount of the surety bond for mortgage brokers shall be
504 Twenty-five Thousand Dollars (\$25,000.00).

505 (b) "Mortgage lender" shall be defined as any company
506 that makes a mortgage loan, using its own funds, for others or for
507 compensation or gain, with the expectation of retaining servicing
508 rights to those loans, or in the expectation of gain, either
509 directly or indirectly, sells or offers to sell a mortgage loan to
510 an investor in the secondary market. This definition includes
511 companies that utilize the services of a person exempted or

512 licensed under this chapter to make a mortgage loan, or purchase
513 or service a mortgage loan, or who services mortgage loans only,
514 including loans in the company's own portfolio. The amount of the
515 surety bond for a mortgage lender shall be One Hundred Fifty
516 Thousand Dollars (\$150,000.00). However, any licensed company
517 that was required by this chapter before July 1, 2007, to hold a
518 surety bond in the amount of Fifty Thousand Dollars (\$50,000.00)
519 shall not be required to increase its bond until its 2007 license
520 year renewal.

521 (2) All surety bonds shall be in favor, first, of the State
522 of Mississippi for the use, benefit and indemnity of any person
523 who suffers any damage or loss as a result of the * * * company's
524 breach of contract or of any obligation arising from contract or
525 any violation of law, and, second, for the payment of any civil
526 penalties, criminal fines, or costs of investigation and/or
527 prosecution incurred by the State of Mississippi, including local
528 law enforcement agencies.

529 **SECTION 8.** Section 81-18-13, Mississippi Code of 1972, is
530 reenacted and amended as follows:

531 81-18-13. (1) Upon receipt of an application for licensure
532 or registration, which shall include the required set of
533 fingerprints from any local law enforcement agency, the department
534 or designated third party shall conduct such an investigation as
535 it deems necessary to determine that the applicant and its
536 officers, directors and principals are of good character and
537 ethical reputation; that the applicant demonstrates reasonable
538 financial responsibility; and that the applicant has reasonable
539 policies and procedures to receive and process customer grievances
540 and inquiries promptly and fairly.

541 (2) The department shall not license an applicant unless it
542 is satisfied that the applicant will operate its mortgage * * *
543 activities in compliance with the laws, rules and regulations of
544 this state and the United States.

545 (3) The department shall not license any mortgage broker or
546 mortgage lender unless the applicant meets the requirements of
547 Section 81-18-11.

548 (4) The department shall not issue a license or
549 registration * * * if it finds that the applicant, or any person
550 who is a director, officer, partner or principal officer of the
551 applicant, has been convicted * * * of: (a) a felony in any
552 jurisdiction; or (b) a crime that, if committed within this state,
553 would constitute a felony under the laws of this state; or (c) a
554 misdemeanor * * * of fraud, theft, forgery, bribery, embezzlement
555 or making a fraudulent or false statement in any jurisdiction.
556 The department may renew the existing license or registration of
557 any such applicant or person who holds a license or registration
558 on July 1, 2007. However, any person submitting an initial
559 application for license or registration with a different company
560 after July 1, 2007, in which the background check discloses a
561 felony or misdemeanor as described in this subsection shall be
562 denied licensure or registration by the department. For the
563 purposes of this chapter, a person shall be deemed to have been
564 convicted of a crime if the person has pleaded guilty to a crime
565 before a court or federal magistrate, or plea of nolo contendere,
566 or has been found guilty of a crime by the decision or judgment of
567 a court or federal magistrate or by the verdict of a jury,
568 irrespective of the pronouncement of sentence or the suspension of
569 a sentence, unless the plea of guilty, or the decision, judgment
570 or verdict, has been set aside, reversed or otherwise abrogated by
571 lawful judicial process, or unless the person convicted of the
572 crime has received a pardon from the President of the United
573 States or the Governor or other pardoning authority in the
574 jurisdiction where the conviction was obtained.

575 (5) In order to determine the applicant's suitability for a
576 license, the commissioner or a designated third party shall
577 forward the fingerprints submitted with the application to the

578 Department of Public Safety; and if no disqualifying record is
579 identified at the state level, the fingerprints shall be forwarded
580 by the Department of Public Safety or a designated third party to
581 the FBI for a national criminal history record check. All
582 conviction data received by the department shall be used by the
583 department for the exclusive purpose of carrying out the
584 responsibilities of this chapter, may not be a public record,
585 shall be privileged, and may not be disclosed to any other person
586 or agency, except to any person or agency that otherwise has a
587 legal right to inspect the file. All records shall be maintained
588 by the department according to law, except as provided in the
589 uniform multistate administration of an automated licensing system
590 for mortgage brokers, mortgage lenders and loan originators. As
591 used in this section "conviction data" means a record of a finding
592 or verdict of guilty or plea of guilty or plea of nolo contendere
593 with regard to any crime regardless of whether an appeal of the
594 conviction has been sought.

595 (6) The department shall deny a license or
596 registration * * * or otherwise restrict a license or
597 registration * * * if it finds that the applicant, or any person
598 who is a director, officer, partner, affiliate, contractor or
599 principal of the applicant, has had any professional license
600 denied, revoked or suspended by any state within two (2) years of
601 the date of the application.

602 (7) Within fifteen (15) days after receipt of a completed
603 application, final verification from the Department of Public
604 Safety and/or FBI, and payment of licensing fees prescribed by
605 this chapter, the department shall either grant or deny the
606 request for license.

607 (8) A person shall not be indemnified for any act covered by
608 this chapter or for any fine or penalty incurred under this
609 chapter as a result of any violation of this chapter or
610 regulations adopted under this chapter, due to the legal form,

611 corporate structure, or choice of organization of the person,
612 including, but not limited to, a limited liability corporation.

613 **SECTION 9.** Section 81-18-15, Mississippi Code of 1972, is
614 reenacted and amended as follows:

615 81-18-15. (1) Each license shall remain in full force and
616 effect until relinquished, suspended, revoked or expired. With
617 each initial application for a license to operate as a mortgage
618 broker or mortgage lender, the applicant shall pay to the
619 commissioner a license fee of Seven Hundred Fifty Dollars
620 (\$750.00), and on or before December 31 of each year thereafter,
621 an annual renewal fee of Four Hundred Seventy-five Dollars
622 (\$475.00). If the annual renewal fee remains unpaid * * *, the
623 license shall expire, but not before December 31 of any year for
624 which the annual renewal fee has been paid. If any person engages
625 in business as provided for in this chapter without paying the
626 license fee provided for in this subsection before commencing
627 business or before the expiration of the person's current license,
628 as the case may be, then the person shall be liable for the full
629 amount of the license fee, plus a penalty in an amount not to
630 exceed Twenty-five Dollars (\$25.00) for each day that the person
631 has engaged in such business without a license or after the
632 expiration of a license. All licensing fees and penalties shall
633 be paid into the Consumer Finance Fund of the department. If the
634 application is withdrawn or denied, the application fee is not
635 refundable.

636 (2) Any licensee making timely and proper application for a
637 license renewal shall be permitted to continue to operate under
638 its existing license until its application is approved or
639 rejected, but shall not be released from or otherwise indemnified
640 for any act covered by this chapter or for any penalty incurred
641 under this chapter as a result of any violation of this chapter or
642 regulations adopted under this chapter, pending final approval or
643 disapproval of the application for the license renewal.

644 (3) Each application for licensing renewal or registration
645 renewal shall include evidence of the satisfactory completion of
646 at least twelve (12) hours of approved continuing education in
647 primary and subordinated financing transactions by the principal
648 officer on file with the department * * * and registered loan
649 originators. Two (2) of the twelve (12) hours shall consist of
650 instruction on the Mississippi Mortgage Consumer Protection Law
651 and shall be approved by the department once the course is
652 approved by the Mississippi Association of Mortgage Brokers, the
653 National Association of Mortgage Brokers, the Mortgage Bankers
654 Association or the Mortgage Bankers Association of Mississippi.
655 For purposes of this subsection (3), approved courses shall be
656 those as approved by the * * * Mortgage Bankers Association,
657 the * * * National Association of Mortgage Brokers, the
658 Mississippi Association of Mortgage Brokers or the Mortgage
659 Bankers Association of Mississippi, who shall submit to the
660 department a listing of approved schools, courses, programs and
661 special training sessions. However, each application for
662 licensing renewal or registration renewal of manufactured housing
663 licensees or originators shall include evidence of the
664 satisfactory completion of at least twelve (12) hours of
665 continuing education, of which eight (8) hours must be approved by
666 the Commissioner of Insurance and four (4) hours consisting of
667 courses in primary and subordinated financing transactions must be
668 approved by the Mississippi Manufactured Housing Association,
669 which shall submit to the department a listing of those approved
670 schools, courses, programs and special training sessions. A
671 manufactured housing licensee or loan originator may submit
672 evidence of completion of courses that have been approved by
673 the * * * Mortgage Bankers Association, the * * * National
674 Association of Mortgage Brokers, the Mississippi Association of
675 Mortgage Brokers or the Mortgage Bankers Association of

676 Mississippi to satisfy the four-hour requirement of courses in
677 primary and subordinated financing transactions.

678 **SECTION 10.** Section 81-18-17, Mississippi Code of 1972, is
679 reenacted and amended as follows:

680 81-18-17. (1) Each license or registration issued under
681 this chapter shall state the address of the licensee's principal
682 place of business, the registrant's assigned licensed location and
683 the name of the licensee or registrant.

684 (2) A licensee or registrant shall post the original license
685 or original registration in a conspicuous place in the assigned
686 place of business of the licensee.

687 (3) A license or registration may not be transferred or
688 assigned.

689 (4) No licensee or registrant shall transact business under
690 any name other than that designated in the license or
691 registration.

692 (5) Each licensee shall notify the department, in writing,
693 of any change in the address of its principal place of business or
694 registered loan originator or of any additional location of
695 business or any change of officer, director or principal of the
696 licensee, or registered loan originator within thirty (30) days of
697 the change.

698 (6) No licensee shall open a branch office in this state or
699 a branch office outside this state from which the licensee has
700 direct contact with * * * consumers regarding origination or
701 brokering Mississippi residential property, without prior approval
702 of the department. An application for any branch office shall be
703 made in writing on a form prescribed by the department, which
704 shall include at least evidence of compliance with subsection (1)
705 of Section 81-18-25 as to that branch and shall be accompanied by
706 payment of a nonrefundable application fee of One Hundred Dollars
707 (\$100.00) and at least one (1) loan originator application
708 registered at that branch office. The application shall be

709 approved unless the department finds that the applicant has not
710 conducted business under this chapter in accordance with law. The
711 application shall be deemed approved if notice to the contrary has
712 not been mailed by the department to the applicant within thirty
713 (30) days of the date that the complete application is received by
714 the department. After approval, the applicant shall give written
715 notice to the department within ten (10) days of the commencement
716 of business at the branch office. Each branch office that
717 currently holds a branch license shall renew that branch license
718 before the expiration date of the main company license, on or
719 before December 31. The license renewal shall be on a form
720 prescribed by the department with a nonrefundable renewal
721 application fee of Twenty-five Dollars (\$25.00).

722 **SECTION 11.** Section 81-18-19, Mississippi Code of 1972, is
723 reenacted as follows:

724 81-18-19. (1) Except as provided in this section, no person
725 shall acquire directly or indirectly twenty-five percent (25%) or
726 more of the voting shares of a corporation or twenty-five percent
727 (25%) or more of the ownership of any other entity licensed to
728 conduct business under this chapter unless it first files an
729 application in accordance with the requirements prescribed in
730 Section 81-18-9.

731 (2) Upon the filing and investigation of an application, the
732 department shall permit the applicant to acquire the interest in
733 the licensee if it is satisfied and finds that the applicant and
734 its members, if applicable, its directors and officers, if a
735 corporation, and any proposed new directors and officers have
736 provided its surety bond and have the character, reputation and
737 experience to warrant belief that the business will be operated
738 fairly and in accordance with the law. If the application is
739 denied, the department shall notify the applicant of the denial
740 and the reasons for the denial.

741 (3) A decision of the department denying a license or
742 registration, original or renewal shall be conclusive, except that
743 the applicant may seek judicial review in the Chancery Court of
744 the First Judicial District of Hinds County, Mississippi.

745 (4) The provisions of this section do not apply to the
746 following, subject to notification as required in this section:

747 (a) The acquisition of an interest in a licensee
748 directly or indirectly including an acquisition by merger or
749 consolidation by or with a person registered under this chapter or
750 exempt from this chapter under Section 81-18-5.

751 (b) The acquisition of an interest in a licensee
752 directly or indirectly including an acquisition by merger or
753 consolidation by or with a person affiliated through common
754 ownership with the licensee.

755 (c) The acquisition of an interest in a licensee by a
756 person by bequest, device, gift or survivorship or by operation of
757 law.

758 (5) A person acquiring an interest in a licensee in a
759 transaction that is requesting exemption from filing an
760 application for approval of the application shall send a written
761 request to the department for an exemption within thirty (30) days
762 before the closing of the transaction.

763 **SECTION 12.** Section 81-18-21, Mississippi Code of 1972, is
764 reenacted and amended as follows:

765 81-18-21. (1) Any person required to be licensed under this
766 chapter shall maintain in its offices, or such other location as
767 the department shall permit, the books, accounts and records
768 necessary for the department to determine whether or not the
769 person is complying with the provisions of this chapter and the
770 rules and regulations adopted by the department under this
771 chapter. These books, accounts and records shall be maintained
772 apart and separate from any other business in which the person is
773 involved and may represent historical data for three (3) years

774 preceding the date of the last license application date forward.
775 The books, accounts and records shall be kept in a secure location
776 under conditions that will not lead to their damage or
777 destruction. If the licensee wishes to keep the files in a
778 location other than the location listed on the license * * *, then
779 the licensee first must submit a written request on a form
780 designated by the department and gain written approval from the
781 commissioner before storing the files at an off-site secure
782 location.

783 (2) To assure compliance with the provisions of this
784 chapter, the department may examine the books and records of any
785 licensee without notice during normal business hours. The
786 commissioner shall charge the licensee an examination fee in an
787 amount not less than Three Hundred Dollars (\$300.00) nor more than
788 Six Hundred Dollars (\$600.00) for each office or location within
789 the State of Mississippi, plus any actual expenses incurred while
790 examining the licensee's records or books that are located outside
791 the State of Mississippi. However, in no event shall a licensee
792 be examined more than once in a two-year period unless for cause
793 shown based upon consumer complaint and/or other exigent reasons
794 as determined by the commissioner.

795 (3) The department, its designated officers and employees,
796 or its duly authorized representatives, for the purposes of
797 discovering violations of this chapter and for the purpose of
798 determining whether any person or individual reasonably suspected
799 by the commissioner of conducting business that requires a license
800 or registration under this chapter, may investigate those persons
801 and individuals and examine all relevant books, records and papers
802 employed by those persons or individuals in the transaction of
803 business, and may summon witnesses and examine them under oath
804 concerning matters as to the business of those persons, or other
805 such matters as may be relevant to the discovery of violations of
806 this chapter including, without limitation, the conduct of

807 business without a license or registration as required under this
808 chapter.

809 (4) The department, in its discretion, may disclose
810 information concerning any violation of this chapter or any rule,
811 regulation, or order under this chapter, provided the information
812 is derived from a final order of the department.

813 (5) Examinations and investigations conducted under this
814 chapter and information obtained by the department, except as
815 provided in subsection (4) of this section, in the course of its
816 duties under this chapter are confidential.

817 (6) In the absence of malice, fraud or bad faith a person is
818 not subject to civil liability arising from the filing of a
819 complaint with the department, furnishing other information
820 required by this chapter, information required by the department
821 under the authority granted in this chapter, or information
822 voluntarily given to the department related to allegations that a
823 licensee or prospective licensee has violated this chapter.

824 **SECTION 13.** Section 81-18-23, Mississippi Code of 1972, is
825 reenacted and amended as follows:

826 81-18-23. (1) Each company shall annually, on or before
827 March 31, file a written report with the department containing the
828 December 31 information that the department may reasonably require
829 concerning the company's business and operations during the
830 preceding calendar year. The report shall be made in the form
831 prescribed by the department.

832 (2) Any company that fails to file with the department by
833 March 31 the report required by this section shall be subject to a
834 late penalty of Ten Dollars (\$10.00) for each day after January 31
835 the report is delinquent, but in no event shall the aggregate of
836 late penalties exceed Two Hundred Dollars (\$200.00).

837 (3) The department, in its discretion, may relieve any
838 company from the payment of any penalty, in whole or in part, for
839 good cause.

840 (4) If a company fails to pay a penalty from which it has
841 not been relieved, the department may maintain an action at law to
842 recover the penalty.

843 (5) Within fifteen (15) days of the occurrence of any of the
844 following events, a company shall file a written report with the
845 commissioner describing the event and its expected impact on the
846 activities of the company in this state:

847 (a) The filing for bankruptcy or reorganization by the
848 company;

849 (b) The institution of revocation or suspension
850 proceedings against the company by any state or governmental
851 authority;

852 (c) Any felony indictment of the company or any of its
853 directors, executive officers, principal officer or loan
854 originators; * * *

855 (d) Any felony conviction of the company or any of its
856 directors, executive officers, principal officer or loan
857 originators; or

858 (e) Any misdemeanor conviction, in which fraud is an
859 essential element, of any of the company's directors, executive
860 officers, principal officer or loan originators.

861 (6) If the company, owner, principal officer of a company or
862 registered loan originator is involved in a civil action
863 concerning the company, then the person shall notify the
864 commissioner in writing within sixty (60) days after the initial
865 filing of the civil action.

866 **SECTION 14.** Section 81-18-25, Mississippi Code of 1972, is
867 reenacted and amended as follows:

868 81-18-25. (1) Each principal place of business and branch
869 office in the state shall meet all of the following requirements:

870 (a) Be in compliance with local zoning ordinances and
871 have posted any licenses required by local government agencies.

872 It is the responsibility of the licensee to meet local zoning

873 ordinances and obtain the required occupational licenses; however,
874 zoning cannot be residential. If there is no zoning in the area,
875 then the person shall submit to the department a letter from the
876 city or county stating that there is no zoning.

877 (b) Consist of at least one (1) secure enclosed room or
878 secure building of stationary construction in which negotiations
879 of mortgage loan transactions may be conducted in privacy.
880 Stationary construction does not include the use of portable
881 buildings. If there is no zoning in the requested location and
882 the property is used for residential purposes, then the person
883 shall utilize an enclosed room with a dedicated outside door.

884 (c) Display a permanent sign outside the place of
885 business readily visible to the general public, unless the display
886 of sign violates local zoning ordinances or restrictive covenants.
887 The sign must contain the name of the licensee and the words
888 "Mississippi Licensed Mortgage Company" or "Mississippi Registered
889 Mortgage Company" or, if the initial license is obtained after
890 July 1, 2007, the words "Licensed by the Mississippi Department of
891 Banking and Consumer Finance".

892 (2) Each licensee shall prominently display the original
893 license at the principal place of business and each branch office.

894 (3) Each person registered under this chapter shall
895 prominently display his or her original registration in the office
896 where the person is employed.

897 (4) If one (1) of the following is correct, then that
898 location shall be licensed as a mortgage broker or mortgage lender
899 under this chapter and not as a branch:

900 (a) It is a separate entity operating as an independent
901 business or mortgage operation which is not under the direct
902 control, management supervision and responsibility of the
903 licensee;

904 (b) The licensee * * * is not the lessee or owner of
905 the branch and the branch is not under the direct and daily

906 ownership, control, management and supervision of the
907 licensee * * *;

908 (c) All assets and liabilities of the branch are not
909 assets and liabilities of the licensee, and all income and
910 expenses of the branch are income and expenses of the licensee and
911 properly accounted for in the financial records and tax returns of
912 the licensee; or

913 (d) All practices, policies and procedures, including,
914 but not limited to, those relating to employment and operations,
915 are not originated and established by the licensee or registered
916 company and are not applied consistently to the main office and
917 all branches.

918 Nothing in this subsection (4) shall affect or change, or be
919 construed as affecting or changing, the existing statutory law and
920 common law on agency, principal and agent, independent
921 contractors, and parent and subsidiary companies.

922 **SECTION 15.** Section 81-18-27, Mississippi Code of 1972, is
923 reenacted and amended as follows:

924 81-18-27. (1) No person required to be licensed or
925 registered under this chapter shall:

926 (a) Misrepresent the material facts or make false
927 promises intended to influence, persuade or induce an applicant
928 for a mortgage loan or mortgagee to take a mortgage loan or cause
929 or contribute to misrepresentation by its agents or employees.

930 (b) Misrepresent to or conceal from an applicant for a
931 mortgage loan or mortgagor, material facts, terms or conditions of
932 a transaction to which the licensee is a party.

933 (c) Fail to disburse funds in accordance with a written
934 commitment or agreement to make a mortgage loan.

935 (d) Improperly refuse to issue a satisfaction of a
936 mortgage loan.

937 (e) Fail to account for or deliver to any person any
938 personal property obtained in connection with a mortgage loan,

939 such as money, funds, deposits, checks, drafts, mortgages or other
940 documents or things of value that have come into the possession of
941 the licensee and that are not the property of the licensee, or
942 that the licensee is not by law or at equity entitled to retain.

943 (f) Engage in any transaction, practice, or course of
944 business that is not in good faith, or that operates a fraud upon
945 any person in connection with the making of or purchase or sale of
946 any mortgage loan, including the use of correction fluid on any
947 document associated with the mortgage loan.

948 (g) Engage in any fraudulent residential mortgage
949 underwriting practices.

950 (h) Induce, require, or otherwise permit the applicant
951 for a mortgage loan or mortgagor to sign a security deed, note, or
952 other pertinent financial disclosure documents with any blank
953 spaces to be filled in after it has been signed, except blank
954 spaces relating to recording or other incidental information not
955 available at the time of signing.

956 (i) Make, directly or indirectly, any residential
957 mortgage loan with the intent to foreclose on the borrower's
958 property. For purposes of this paragraph, there is a presumption
959 that a person has made a residential mortgage loan with the intent
960 to foreclose on the borrower's property if all of the following
961 circumstances are proven:

962 (i) Lack of substantial benefit to the borrower;

963 (ii) The probability that full payment of the loan
964 cannot be made by the borrower;

965 (iii) That the person has made a significant
966 proportion of loans foreclosed under similar circumstances;

967 (iv) That the person has provided an extension of
968 credit or collected a mortgage debt by extortion;

969 (v) That the person does business under a trade
970 name that misrepresents or tends to misrepresent that the person

971 is a bank, trust company, savings bank, savings and loan
972 association, credit union, or insurance company.

973 (j) Charge or collect any direct payment, compensation
974 or advance fee from a borrower unless and until a loan is actually
975 found, obtained and closed for that borrower, and in no event
976 shall that direct payment, compensation or advance fee exceed
977 seven and ninety-five one-hundredths percent (7.95%) of the
978 original principal amount of the loan, and any such direct
979 payments, compensation or advance fees shall be included in all
980 annual percentage rate (APR) calculations if required under
981 Regulation Z of the federal Truth in Lending Act (TILA). A direct
982 payment, compensation or advance fee as defined in this section
983 shall not include:

984 (i) Any direct payment, compensation or advance
985 fee collected by a licensed mortgage broker or mortgage lender to
986 be paid to a nonrelated third party;

987 (ii) Any indirect payment to a licensed mortgage
988 broker or mortgage lender by a lender if those fees are not
989 required to be disclosed under the Real Estate Settlement
990 Procedures Act (RESPA);

991 (iii) Any indirect payment or compensation by a
992 lender to a licensee required to be disclosed by the licensee
993 under RESPA, provided that the payment or compensation is
994 disclosed to the borrower by the licensee on a good faith estimate
995 of costs, is included in the APR if required under Regulation Z of
996 TILA, and is made pursuant to a written agreement between the
997 licensee and the borrower as may be required by Section 81-18-33;

998 (iv) A fee not to exceed one percent (1%) of the
999 principal amount of a loan for construction, provided that a
1000 binding commitment for the loan has been obtained for the
1001 prospective borrower; or

1002 (v) An advance fee, known as a lock-in fee,
1003 collected by a licensee to be paid to a lender to lock in an

1004 interest rate and/or a certain number of points on a mortgage loan
1005 from the lender as provided in Section 81-18-28.

1006 (k) Pay to any person not licensed or registered under
1007 the provisions of this chapter any commission, bonus or fee in
1008 connection with arranging for or originating a mortgage loan for a
1009 borrower, except that a registered loan originator may be paid a
1010 bonus, commission, or fee by his or her licensed employer.

1011 (l) Refuse to provide the loan payoff within three (3)
1012 business days of an oral or written request from a borrower or
1013 third party. Proof of authorization of the borrower shall be
1014 submitted for a third-party request.

1015 (m) Knowingly withhold, extract, remove, mutilate,
1016 destroy or conceal any books, records, computer records or other
1017 information which are required by law to be disclosed.

1018 (2) A licensed mortgage broker or mortgage lender shall only
1019 broker a residential mortgage loan to a mortgage broker or
1020 mortgage lender licensed * * * under this chapter or to a person
1021 exempt from licensure under the provisions of this chapter.

1022 (3) No nonbanking entity may use any sign or handwritten or
1023 printed paper indicating that it is a bank, savings bank, trust
1024 company or place of banking. No entity may use the word "bank,"
1025 "savings bank," "banking," "banker" or "trust company," or the
1026 equivalent or plural of any of these words, in connection with any
1027 business other than that of banking. This subsection does not
1028 prohibit a person from acting in a trust capacity.

1029 (4) No person shall use the name or logo of any banking
1030 entity in connection with the sale, offering for sale, or
1031 advertising of any financial product or service without the
1032 express written consent of the banking entity.

1033 **SECTION 16.** Section 81-18-28, Mississippi Code of 1972, is
1034 reenacted and amended as follows:

1035 81-18-28. (1) A licensed mortgage broker or mortgage lender
1036 may enter into lock-in agreements and collect a lock-in fee from a

1037 borrower on the lender's behalf. The lock-in fee shall not exceed
1038 the following:

1039 (a) No fee may be collected to lock in for sixty (60)
1040 days or less;

1041 (b) One percent (1%) of the principal amount of the
1042 loan to lock in for more than sixty (60) days, but not to exceed
1043 one hundred eighty (180) days;

1044 (c) One and one-half percent (1-1/2%) of the principal
1045 amount of the loan to lock in for more than one hundred eighty
1046 (180) days, but not to exceed two hundred seventy (270) days; or

1047 (d) Two percent (2%) of the principal amount of the
1048 loan to lock in for more than two hundred seventy (270) days.

1049 (2) Before the collection of a lock-in fee, the applicant
1050 must be provided a copy of the lock-in fee agreement. This
1051 agreement shall contain at least the following:

1052 (a) Identification of the property that is being
1053 purchased with the loan;

1054 (b) The principal amount and term of the loan;

1055 (c) The initial interest rate and/or points, whether
1056 the interest rate is fixed or variable, and if variable, the index
1057 and margin, or the method by which an interest rate change for the
1058 mortgage loan will be calculated;

1059 (d) The amount of the lock-in fee, whether the fee is
1060 refundable or nonrefundable, the time by which the lock-in fee
1061 must be paid to the lender, and if the fee is refundable, the
1062 terms and conditions necessary to obtain the refund; and

1063 (e) The length of the lock-in period that the agreement
1064 covers.

1065 **SECTION 17.** Section 81-18-29, Mississippi Code of 1972, is
1066 reenacted and amended as follows:

1067 81-18-29. The commissioner shall promulgate those rules and
1068 regulations, not inconsistent with law, necessary for the
1069 enforcement of this chapter.

1070 **SECTION 18.** Section 81-18-31, Mississippi Code of 1972, is
1071 reenacted and amended as follows:

1072 81-18-31. The department shall promulgate regulations
1073 governing the advertising of mortgage loans, including, but not
1074 limited to, the following requirements:

1075 (a) That all advertisements for loans regulated under
1076 this chapter may not be false, misleading or deceptive. No person
1077 whose activities are regulated under this chapter may advertise in
1078 any manner so as to indicate or imply that its interest rates or
1079 charges for loans are "recommended," "approved," "set" or
1080 "established" by the State of Mississippi;

1081 (b) That all licensees shall maintain a copy of all
1082 advertisements citing interest rates or payment amounts primarily
1083 disseminated in this state and shall attach to each advertisement
1084 documentation that provides corroboration of the availability of
1085 the interest rate and terms of loans and names the specific media
1086 sources by which the advertisements were distributed;

1087 (c) That all published advertisements disseminated
1088 primarily in this state by a licensee shall contain the name and an
1089 office address of the licensee, which shall be the same as the
1090 name and address of the licensee on record with the department;

1091 (d) That an advertisement containing either a quoted
1092 interest rate or monthly payment amount must include:

1093 (i) The interest rate of the mortgage, a statement
1094 as to whether the rate is fixed or adjustable, and the adjustment
1095 index and frequency of adjustments;

1096 (ii) The term in years or months to fully repay
1097 the mortgage;

1098 (iii) The APR as computed under federal
1099 guidelines; and

1100 (e) That no licensee shall advertise its services in
1101 Mississippi in any media disseminated primarily in this state,
1102 whether print or electronic, without the words "Mississippi

1103 Licensed Mortgage Company" or "Mississippi Registered Mortgage
1104 Company" or, if the initial license is obtained after July 1,
1105 2007, the words "Licensed by the Mississippi Department of Banking
1106 and Consumer Finance".

1107 **SECTION 19.** Section 81-18-33, Mississippi Code of 1972, is
1108 reenacted and amended as follows:

1109 81-18-33. The individual borrower files of a licensee shall
1110 contain at least the following:

1111 (a) A mortgage origination agreement provided to the
1112 borrower containing at least the following statements:

1113 (i) "As required by Mississippi Law, (licensed
1114 company name) has secured a bond issued by (name of insurance
1115 company), a surety company authorized to do business in this
1116 state. A certified copy of this bond is filed with the
1117 Mississippi Commissioner of Banking and Consumer Finance."

1118 (ii) "As a borrower you are protected under the
1119 Mississippi Mortgage Consumer Protection Law."

1120 (iii) "Complaints against a licensee may be made
1121 by contacting the:

1122 Mississippi Department of Banking and
1123 Consumer Finance
1124 P.O. Box 23729
1125 Jackson, MS 39225-3729";

1126 (b) A copy of the original loan application signed and
1127 dated by the licensee;

1128 (c) A copy of the signed closing statement as required
1129 by HUD or documentation of denial or cancellation of the loan
1130 application;

1131 (d) A copy of the good faith estimate of costs provided
1132 to the borrower;

1133 (e) A copy of the appraisal or statement of value if
1134 procured as a part of the loan application process;

1135 (f) A copy of a loan lock-in agreement, if any,
1136 provided by the licensee; * * *

1137 (g) A copy of the disclosures required under Regulation
1138 Z of the federal Truth In Lending Act and other disclosures as
1139 required under federal regulations and evidence that those
1140 disclosures have been properly and timely made to the borrower;
1141 and

1142 (h) A copy of the final signed Uniform Residential Loan
1143 Application.

1144 **SECTION 20.** Section 81-18-35, Mississippi Code of 1972, is
1145 reenacted and amended as follows:

1146 81-18-35. Each licensee shall maintain a journal of mortgage
1147 transactions at the principal place of business as stated on its
1148 license, which shall include at least the following information:

1149 (a) Name of applicant and co-applicant, if applicable;

1150 (b) Date of application; and

1151 (c) Disposition of loan application, indicating date of
1152 loan funding, loan denial, withdrawal and name of lender if
1153 applicable.

1154 **SECTION 21.** Section 81-18-36, Mississippi Code of 1972, is
1155 reenacted and amended as follows:

1156 81-18-36. (1) (a) All monies paid to a licensee for
1157 payment of taxes, loan commitment deposits, work completion
1158 deposits, appraisals, credit reports or insurance premiums on
1159 property that secures any loan made or serviced by the licensee
1160 shall be deposited in an account that is insured by the Federal
1161 Deposit Insurance Corporation or the National Credit Union
1162 Administration and shall be kept separate, distinct, and apart
1163 from funds belonging to the licensee.

1164 (b) The funds, when deposited, are to be designated as
1165 an "escrow account," or under some other appropriate name,
1166 indicating that the funds are not the funds of the licensee.

1167 (2) The licensee shall, upon reasonable notice, account to
1168 any debtor whose property secures a loan made by the licensee for
1169 any funds which that person has paid to the licensee for the
1170 payment of taxes or insurance premiums on the property in
1171 question.

1172 (3) The licensee shall, upon reasonable notice, account to
1173 the commissioner for all funds in the company's escrow account.

1174 (4) Escrow accounts are not subject to execution or
1175 attachment on any claim against the licensee.

1176 (5) It is unlawful for any licensee knowingly to keep or
1177 cause to be kept any funds or money in any bank or other financial
1178 institution under the heading of "escrow account" or any other
1179 name designating the funds or monies belonging to the debtors of
1180 the licensee, except actual funds paid to the licensee for the
1181 payment of taxes and insurance premiums on property securing loans
1182 made or serviced by the company.

1183 **SECTION 22.** Section 81-18-37, Mississippi Code of 1972, is
1184 reenacted and amended as follows:

1185 81-18-37. (1) The department may suspend or revoke any
1186 license or registration for any reason that would have been
1187 grounds for refusal to issue an original license or registration
1188 or for:

1189 (a) A violation of any provision of this chapter or any
1190 rule or regulation adopted under this chapter;

1191 (b) Failure of the licensee or registrant to pay,
1192 within thirty (30) days after it becomes final and nonappealable,
1193 a judgment recovered in any court within this state by a claimant
1194 or creditor in an action arising out of the licensee's or
1195 registrant's business in this state as a mortgage broker or
1196 mortgage lender.

1197 (2) Notice of the department's intention to enter an order
1198 denying an application for a license or registration under this
1199 chapter or of an order suspending or revoking a license or

1200 registration under this chapter shall be given to the applicant,
1201 licensee or registrant in writing, sent by registered or certified
1202 mail addressed to the principal place of business of the
1203 applicant, licensee or registrant. Within thirty (30) days of the
1204 date of the notice of intention to enter an order of denial,
1205 suspension or revocation under this chapter, the applicant,
1206 licensee or registrant may request in writing a hearing to contest
1207 the order. If a hearing is not requested in writing within thirty
1208 (30) days of the date of the notice of intention, the department
1209 shall enter a final order regarding the denial, suspension or
1210 revocation. Any final order of the department denying, suspending
1211 or revoking a license or registration shall state the grounds upon
1212 which it is based and shall be effective on the date of issuance.
1213 A copy of the final order shall be forwarded promptly by
1214 registered or certified mail addressed to the principal place of
1215 business of the applicant, licensee or registrant.

1216 **SECTION 23.** Section 81-18-39, Mississippi Code of 1972, is
1217 reenacted as follows:

1218 81-18-39. (1) For purposes of this section, the term
1219 "person" shall be construed to include any officer, director,
1220 employee, affiliate or other person participating in the conduct
1221 of the affairs of the person subject to the orders issued under
1222 this section.

1223 (2) If the department reasonably determines that a person
1224 required to be licensed or registered under this chapter has
1225 violated any law of this state or any order or regulation of the
1226 department, the department may issue a written order requiring the
1227 person to cease and desist from unlawful or unauthorized
1228 practices. In the case of an unlawful purchase of mortgage loans,
1229 the cease and desist order to a purchaser shall constitute the
1230 knowledge required under this section for any subsequent
1231 violations.

1232 (3) Any person required to be licensed or registered under
1233 this chapter who has been deemed by the commissioner, after notice
1234 and hearing, to have violated the terms of any order properly
1235 issued by the department under this section shall be liable for a
1236 civil penalty not to exceed Three Thousand Dollars (\$3,000.00).
1237 The department, in determining the amount of the penalty, shall
1238 take into account the appropriateness of the penalty relative to
1239 the size of the financial resources of the person, the good faith
1240 efforts of the person to comply with the order, the gravity of the
1241 violation, the history of previous violations by the person, and
1242 other factors or circumstances that contributed to the violation.
1243 The department may compromise, modify or refund any penalty that
1244 has been imposed under this section. Any person assessed a
1245 penalty as provided in this subsection shall have the right to
1246 request a hearing on the amount of the penalty within ten (10)
1247 days after receiving notification of the assessment. If no
1248 hearing is requested within ten (10) days of the receipt of the
1249 notice, the penalty shall be final except as to judicial review in
1250 the Chancery Court of the First Judicial District of Hinds County.
1251 Upon the filing of a petition for judicial review, the court shall
1252 issue an order to the licensee requiring the licensee to show
1253 cause why it should not be entered. If the court determines,
1254 after a hearing upon the merits or after failure of the person to
1255 appear when so ordered, that the order of the department was
1256 properly issued, it shall grant the penalty sought by the
1257 department.

1258 **SECTION 24.** Section 81-18-41, Mississippi Code of 1972, is
1259 reenacted and amended as follows:

1260 81-18-41. Nothing in this chapter shall preclude a person
1261 whose license * * * has been suspended or revoked from continuing
1262 to service mortgage loans pursuant to servicing contracts in
1263 existence at the time of the suspension or revocation for a
1264 reasonable transition period, as determined by the commissioner,

1265 after the date of the entry of the final decision in the case
1266 suspending or revoking the license.

1267 **SECTION 25.** Section 81-18-43, Mississippi Code of 1972, is
1268 reenacted and amended as follows:

1269 81-18-43. (1) In addition to any other penalty that may be
1270 applicable, any licensee, person required to be registered, or
1271 employee who willfully violates any provision of this chapter, or
1272 who willfully makes a false entry in any document specifically
1273 required by this chapter, shall be guilty of a misdemeanor and,
1274 upon conviction thereof, shall be punishable by a fine not in
1275 excess of One Thousand Dollars (\$1,000.00) per violation or false
1276 entry.

1277 (2) In addition to any other penalty that may be applicable,
1278 any licensee, person required to be registered, or employee who
1279 fails to make a record of a mortgage transaction and subsequently
1280 sells or disposes of the mortgage from that transaction shall be
1281 punished as follows:

1282 (a) For a first offense, the licensee, person required
1283 to be registered, or employee shall be guilty of a misdemeanor
1284 and, upon conviction thereof, shall be punishable by a fine not in
1285 excess of One Thousand Dollars (\$1,000.00) or by imprisonment in
1286 the county jail for not more than one (1) year, or both fine and
1287 imprisonment;

1288 (b) For a second or subsequent offense, the licensee,
1289 person required to be registered, or employee shall be guilty of a
1290 felony and, upon conviction thereof, shall be punishable by a fine
1291 not in excess of Five Thousand Dollars (\$5,000.00) or by
1292 imprisonment in the custody of the State Department of Corrections
1293 for a term not less than one (1) year nor more than five (5)
1294 years, or by both fine and imprisonment.

1295 (3) Compliance with the criminal provisions of this section
1296 shall be enforced by the appropriate law enforcement agency, which

1297 may exercise for that purpose any authority conferred upon the
1298 agency by law.

1299 (4) When the commissioner has reasonable cause to believe
1300 that a person is violating any provision of this chapter, the
1301 commissioner, in addition to and without prejudice to the
1302 authority provided elsewhere in this chapter, may enter an order
1303 requiring the person to stop or to refrain from the violation.
1304 The commissioner may sue in any chancery court of the state having
1305 jurisdiction and venue to enjoin the person from engaging in or
1306 continuing the violation or from doing any act in furtherance of
1307 the violation. In such an action, the court may enter an order or
1308 judgment awarding a preliminary or permanent injunction.

1309 (5) The commissioner may, after notice and hearing, impose a
1310 civil penalty against any licensee if the licensee, person
1311 required to be registered, or employee is adjudged by the
1312 commissioner to be in violation of the provisions of this chapter.
1313 The civil penalty shall not exceed Five Hundred Dollars (\$500.00)
1314 per violation and shall be deposited into the Consumer Finance
1315 Fund of the department.

1316 (6) The commissioner may make public any final
1317 administrative action imposed against a licensee or registrant for
1318 a violation of this chapter, including cease and desist orders,
1319 civil monetary penalties, license suspensions, revocations or
1320 application denials.

1321 (7) The state may enforce its rights under the surety bond
1322 as required in Section 81-18-11 as an available remedy for the
1323 collection of any civil penalties, criminal fines or costs of
1324 investigation and/or prosecution incurred.

1325 **SECTION 26.** Section 81-18-45, Mississippi Code of 1972, is
1326 reenacted as follows:

1327 81-18-45. The commissioner may employ the necessary
1328 full-time employees above the number of permanent full-time
1329 employees authorized for the department for the fiscal year 2001,

1330 to carry out and enforce the provisions of this chapter. The
1331 commissioner also may expend the necessary funds and equip and
1332 provide necessary travel expenses for those employees.

1333 **SECTION 27.** Section 81-18-47, Mississippi Code of 1972, is
1334 reenacted as follows:

1335 81-18-47. (1) A licensee under this chapter shall have no
1336 liability for any act or practice done or omitted in conformity
1337 with (a) any rule or regulation of the commissioner, or (b) any
1338 rule, regulation, interpretation or approval of any other state or
1339 federal agency or any opinion of the Attorney General,
1340 notwithstanding that after such act or omission has occurred the
1341 rule, regulation, interpretation, approval or opinion is amended,
1342 rescinded, or determined by judicial or other authority to be
1343 invalid for any reason.

1344 (2) A licensee under this chapter, acting in conformity with
1345 a written interpretation or approval by an official or employee of
1346 any state or federal agency or department, shall be presumed to
1347 have acted in accordance with applicable law, notwithstanding that
1348 after such act has occurred, the interpretation or approval is
1349 amended, rescinded, or determined by judicial or other authority
1350 to be incorrect or invalid for any reason.

1351 **SECTION 28.** Section 81-18-49, Mississippi Code of 1972, is
1352 reenacted as follows:

1353 81-18-49. Notwithstanding any provisions of this chapter to
1354 the contrary, mortgage companies engaging in business on or before
1355 June 1, 2000, shall be duly licensed by the department after
1356 submitting not later than January 1, 2001, the required documents
1357 and fees provided in Sections 81-18-9 and 81-18-15. However, upon
1358 the expiration of the initial licenses for such mortgage
1359 companies, the department shall renew the licenses only if the
1360 mortgage companies satisfy all of the provisions of this chapter.

1361 **SECTION 29.** Section 81-18-51, Mississippi Code of 1972, is
1362 amended as follows:

1363 81-18-51. Sections 81-18-1 through 81-18-49 shall stand
1364 repealed on July 1, 2012.

1365 **SECTION 30.** The following shall be codified as a separate
1366 section within Chapter 18, Title 81, Mississippi Code of 1972:

1367 81-18-___. (1) The Legislature finds that a uniform
1368 multistate administration of a multistate licensing system for
1369 mortgage brokers, mortgage lenders and mortgage loan originators
1370 is consistent with both the public interest and the provisions of
1371 this chapter; therefore, the department may participate in such a
1372 system whereby each requirement is consistent with both the public
1373 interest and the provisions of this chapter. These new
1374 requirements shall include criminal background checks by the FBI
1375 and the Mississippi Department of Public Safety.

1376 (2) Nothing in this section shall authorize the commissioner
1377 to require any person exempt from licensure under the Mississippi
1378 Mortgage Consumer Protection Law to participate in the multistate
1379 licensing system.

1380 (3) Except for the commissioner, or his designee, no person
1381 shall be authorized to obtain information from the multistate
1382 licensing database that they could not otherwise have obtained
1383 prior to the state's adoption of the multistate licensing system
1384 under then existing state law. No information obtained from the
1385 multistate licensing system shall be admissible as evidence in, or
1386 used to initiate, a civil proceeding in this state unless such
1387 information would have been available prior to the state's
1388 adoption of the multistate licensing system under then existing
1389 law.

1390 (4) The commissioner shall notify the multistate licensing
1391 system if the system adopts or intends to adopt a notification
1392 policy regarding privacy, data security, and security breach that
1393 are inconsistent with any applicable Mississippi laws.

1394 (5) The commissioner may require a participating
1395 licensee/registrant to submit a processing fee, administrative fee

1396 or similar fee to the multistate licensing system; however, any
1397 such fee shall be considered a licensing fee as provided in
1398 Sections 81-18-5(1) and 81-18-15.

1399 **SECTION 31.** (1) A person commits the offense of residential
1400 mortgage fraud when, with the intent to defraud such person, he:

1401 (a) Knowingly makes any deliberate misstatement,
1402 misrepresentation or omission during the mortgage lending process
1403 with the intention that it be relied on by a licensed mortgage
1404 broker or mortgage lender, borrower or any other party to the
1405 mortgage lending process;

1406 (b) Knowingly uses or facilitates the use of any
1407 deliberate misstatement, misrepresentation or omission, knowing
1408 the same to contain a misstatement, misrepresentation or omission,
1409 during the mortgage lending process with the intention that it be
1410 relied on by a company, borrower, or any other party to the
1411 mortgage lending process;

1412 (c) Receives any proceeds or any other funds in
1413 connection with a residential mortgage closing that such person
1414 knew resulted from a violation of paragraph (a) or (b) of this
1415 subsection;

1416 (d) Conspires to violate any of the provisions of
1417 paragraph (a), (b) or (c) of this subsection; or

1418 (e) Files or causes to be filed with the chancery clerk
1419 of any county of this state any deed of trust such person knows to
1420 contain a deliberate misstatement, misrepresentation or omission.

1421 (2) An offense of residential mortgage fraud shall not be
1422 predicated solely upon information lawfully disclosed under
1423 federal disclosure laws, regulations and interpretations related
1424 to the mortgage lending process.

1425 (3) For the purposes of venue under this section, any
1426 violation of this section shall be considered to have been
1427 committed:

1428 (a) In the county in which the residential property for
1429 which a mortgage loan is being sought is located;

1430 (b) In any county in which any act was performed in
1431 furtherance of this violation;

1432 (c) In any county in which any person alleged to have
1433 violated this chapter had control or possession of any proceeds of
1434 this violation;

1435 (d) If a closing occurred, in any county in which the
1436 closing occurred; or

1437 (e) In any county in which a document containing a
1438 deliberate misstatement, misrepresentation or omission is filed
1439 with the chancery clerk.

1440 (4) District attorneys and the Attorney General shall have
1441 the authority to conduct the criminal investigation of all cases
1442 of residential mortgage fraud under this section.

1443 (5) (a) Any person violating this section shall be guilty
1444 of a felony and, upon conviction, shall be punished by
1445 imprisonment for not less than one (1) year nor more than ten (10)
1446 years, by a fine not to exceed Five Thousand Dollars (\$5,000.00),
1447 or both.

1448 (b) If a violation of this section involves engaging or
1449 participating in a pattern of residential mortgage fraud or a
1450 conspiracy or endeavor to engage or participate in a pattern of
1451 residential mortgage fraud, the violation shall be punishable by
1452 imprisonment for not less than three (3) years nor more than
1453 twenty (20) years, by a fine not to exceed One Hundred Thousand
1454 Dollars (\$100,000.00), or both.

1455 (c) Each residential property transaction subject to a
1456 violation of this section shall constitute a separate offense and
1457 shall not merge with any other crimes set forth in this section.

1458 (6) All real and personal property of every kind used or
1459 intended for use in the course of, derived from, or realized
1460 through a violation of this section shall be subject to forfeiture

1461 to the state. Forfeiture shall be had by the same procedure as
1462 outlined in Sections 97-43-9 and 97-43-11. District attorneys and
1463 the Attorney General may commence forfeiture proceedings under
1464 this section.

1465 (7) For purposes of this section, the term "pattern of
1466 residential mortgage fraud" means one or more violations of
1467 subsection (1) of this section that involve two (2) or more
1468 residential properties which have the same or similar intents,
1469 results, accomplices, victims or methods of commission or
1470 otherwise are interrelated by distinguishing characteristics.

1471 **SECTION 32.** This act shall take effect and be in force from
1472 and after July 1, 2007.